

RIVERSIDE DEVELOPMENTAL DISABILITIES

POLICY STATEMENT: G-46

SUBJECT: PRIVACY NOTICE

I. POLICY ON NOTICES

The Board shall give adequate notice of the uses and disclosures of protected health information that may be made by the Board, and of the individual's rights and the Board's legal duties with respect to Protected Health Information (PHI).

A. General

An individual has a right to adequate notice of the uses and disclosures of the individual's PHI that may be made by or on behalf of the Board, and of the individual's rights and the Board's legal duties with respect to the individual's PHI.

B. When notice is required

1. The Board must provide notice:
 - a. No later than April 14, 2003, to individuals enrolled in Board services;
 - b. Thereafter, at the time of enrollment, to individuals who are new enrollees;
 - c. In an emergency treatment situation, as soon as reasonably practicable after the emergency treatment situation;
 - d. Within 60 days of a material revision to the notice, to individuals enrolled in Board services.
 - e. At the time of the annual ISP meeting individuals will be asked if they would like another copy of the County Board Privacy Notice.

C. Acknowledgment of Notice

1. Except in an emergency treatment situation, the Board shall make a good faith effort to obtain a written acknowledgment of receipt of the initial notice provided, and if not obtained, document its good faith efforts to obtain such acknowledgment and the reason why the acknowledgment was not obtained.
2. An acknowledgment is not required for:
 - a. Revised notices; or
 - b. Periodic notice on availability of notice and how to obtain notice.

D. Making Notice Available

1. The notice shall be available at all sites operated by the Board for individuals to request to take with them.
2. The Board shall post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from the Board to be able to read the notice.

3. Whenever the notice is revised, the Board shall make the notice available upon request on or after the effective date of the revision and shall promptly post as required in this paragraph.

E. Required Content of Notice

The notice of privacy practices must be written in plain language and must contain the following elements:

1. The following statement in a header or otherwise prominently displayed: "THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY".
2. A description, including at least one example, of the types of uses and disclosures that the Board is permitted to make for purposes of treatment, with sufficient detail to place an individual on notice of the uses and disclosures permitted or required. The description should clarify that any disclosure outside of the Board requires prior authorization;
3. A description, including at least one example, of the types of uses and disclosures that the Board is permitted to make for purposes of payment and health care operations, with sufficient detail to place an individual on notice of the uses and disclosures permitted or required;
4. A description of each of the other purposes for which the Board is permitted or required to use or disclose PHI without an individual's consent or authorization, with sufficient detail to place an individual on notice of the uses and disclosures permitted or required;
5. A statement that other uses or disclosures will be made only with the individual's written authorization, and that the authorization may be revoked in accordance with the policy on authorizations;
6. If the Board intends to contact the individual for appointment reminders, treatment alternatives or other health related benefits, a separate statement describing such contacts;
7. A statement of the individual's rights with respect to his/her PHI, and a brief description of how the individual may exercise those rights, including: the right to request restrictions on certain uses/disclosures of PHI, and the fact that the Board does not have to agree to such restrictions; the right to receive confidential communications of PHI; the right to inspect and copy PHI upon written request; the right to amend PHI; the right to receive an accounting of disclosures of PHI, and; the right to receive a paper copy of the privacy notice (each of the above in accordance with relevant policies);

8. A statement of the Board's duties with respect to PHI including statements: that the Board is required by law to maintain the privacy of PHI and to provide individuals with notice of its legal duties and privacy policies; that the Board is required to abide by the terms of the currently effective privacy notice;
9. A statement that the Board reserves the right to change the terms of the notice and make the new notice provisions effective for all PHI maintained, along with a description of how the Board will provide individuals with the revised notice;
10. A statement that individuals may complain to the Board and to the Secretary of the U.S. Department of Health and Human Services about privacy rights violations, including a brief statement about how a complaint may be filed and an assurance that the individual will not be retaliated against for filing a complaint;
11. The Privacy Officer may be contacted for further information by calling the Board's offices:
12. The effective date of the notice (which may not be earlier than the date printed or published).

F. Notice of Revisions

1. When there is a material change to the uses or disclosures, the individual's rights, the Board's legal duties, or other privacy practices described in the notice, the Board shall provide a notice of such change.
2. Notice of material changes shall be made no later than 60 days after the change is effective
3. The notice shall incorporate all material changes and shall be distributed in accordance with this policy within the time period required in this policy.
4. Except when required by law, a material change to any term may not be implemented prior to the effective date of the notice reflecting the change.
5. The Board is not required to obtain acknowledgment of a revised notice.

G. Requirements for Electronic Notice

1. The Board must post the Privacy Notice on the web site and have it be made available electronically through the web site.

2. The Board may provide the notice required by this section to an individual by e-mail, if the individual agrees to electronic notice and such agreement has not been withdrawn. If the Board knows that the e-mail transmission has failed, a paper copy of the notice must be provided to the individual. Notice, which is provided in accordance with this section and in a timely manner, is sufficient to meet HIPAA requirements.
3. The individual who is the recipient of electronic notice retains the right to obtain a paper copy of the notice from the Board upon request.

H. Documentation

The Board shall retain copies of the notices issued by the Board and any written acknowledgments of receipt of the notice or documentation of good faith efforts to obtain such written acknowledgment. Copies of such notices shall be retained for a period of at least six years from the later of the date of creation of the notice or the last effective date of the notice. Acknowledgments or documentation of good faith efforts to obtain acknowledgment shall be retained for a period of at least six years from the date of receipt.

I. Addendum

See attached Addendum

Effective date of this policy: August 21, 2017

<u>PRESIDENT</u>	<u>DATE</u>	<u>SUPERINTENDENT</u>	<u>DATE</u>
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Prior effective date: 1/23/17; 10/20/14; 10/15/12; 10/21/10; 10/21/08; 07/18/06; 07/15/03

References: 45 CFR 164.520 (HIPAA rules on notice), ORC § 1347.08(A)(3) (Personal Information Systems), HIPAA rules apply.

_____ Human Resources Director

_____ Date



ADDENDUM TO NOTICE OF PRIVACY PRACTICES

The Section of your Notice of Privacy Practices which addresses Sharing your Personal Information without authorization is amended to add the following language

Disability Rights Ohio (DRO) filed a state-wide class action captioned Ball v. Kasich Case No. 2:16-cv-282 in the U.S. District Court for the Southern District of Ohio. The suit was filed on March 31, 2016 against the Governor, Department of Developmental Disabilities, Department of Medicaid and Opportunities for Ohioans with Disabilities. The Ohio Association of County Boards Serving People with Developmental Disabilities may become a defendant in the lawsuit. The Plaintiffs are represented by DRO and other lawyers from Massachusetts, Illinois, Michigan and Washington D.C.

The action potentially affects all adults with DD. The parties to the lawsuit, through their lawyers, have sought and will continue to seek documentation, including Protected Health Information, on individuals who are or who may be a part of this lawsuit, or who may have information relevant to this lawsuit or who are simply receiving services from DD Boards. The DD Board will comply with requests for information and may provide Protected Health Information on any person served by the DD Board to the lawyers for any of the parties. All information provided in connection with this lawsuit is covered by a protective order issued by the court which complies with HIPAA and other privacy regulations and which ensures that the information about any individual cannot be disclosed outside of the lawsuit without their permission. At the conclusion of the lawsuit, all protected health information which was disclosed or retained by any party in the course of the lawsuit will be destroyed.

For further information on the lawsuit or the Protective Order, contact OACBDD.